

INTRODUCED \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_  
COUNCIL ACTION \_\_\_\_\_  
EXEC. ACTION \_\_\_\_\_  
EFFECTIVE DATE \_\_\_\_\_

**County Council of Howard County, Maryland**

2004 Legislative Session

Legislative Day No. 10

**Bill No. 45-2004**

Introduced by: The Chairman at the request of the County Executive

AN ORDINANCE supplementing Council Bill No. 22-2002, as supplemented, which provided for the issuance of the County's Consolidated Public Improvement Bonds to provide funds to pay the County's Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series C (the "Notes"), in order to provide for the issuance of an additional \$50,765,000 of such Bonds in order to provide funds to pay \$50,000,000 of additional Notes, and for related purposes; and providing for and determining various matters in connection therewith.

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Introduced and read first time \_\_\_\_\_, 2004. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2004.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

This Bill was read the third time on \_\_\_\_\_, 2004 and Passed \_\_\_\_, Passed with amendments \_\_\_\_, Failed \_\_\_\_.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2004 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Approved by the County Executive \_\_\_\_\_, 2004

\_\_\_\_\_  
James N. Robey, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Recitals**

2 On June 3, 2002, the County Council of Howard County (the "County Council"), pursuant to  
3 Council Bills Nos. 15, 40, 42, 43 and 45, enacted during the 1997 Legislative Session, Council Bills Nos. 16,  
4 18, 19 and 27, enacted during the 1998 Legislative Session, Council Bills Nos. 19, 20, 22, 32, 33, 53 and 56,  
5 enacted during the 1999 Legislative Session, Council Bills Nos. 15, 17, 27 and 29, enacted during the 2000  
6 Legislative Session, and Council Bills Nos. 18, 21 and 58, enacted during the 2001 Legislative Session,  
7 (collectively, the "Initial Bond Enabling Laws"), passed Council Bill No. 22-2002, which ordinance was  
8 approved by the County Executive of Howard County (the "County Executive") and became effective on  
9 June 5, 2002 (the "Original Bond Ordinance"), in order to provide for the issuance and sale of \$60,915,000 in  
10 aggregate principal amount of general obligation bonds of Howard County, Maryland (the "County"), to be  
11 designated "Howard County, Maryland Consolidated Public Improvement Bonds" (the "Initial Bonds").

12 By July 1, 2002 the County had satisfied all conditions precedent for the initial issuance of its  
13 Howard County, Maryland Consolidated Public Improvement Commercial Paper Bond Anticipation Notes,  
14 Series C, in the initial maximum aggregate principal amount outstanding at any one time of \$60,000,000 (the  
15 "Notes") in accordance with Council Bill No. 23-2002 of the County Council, enacted and effective on June  
16 5, 2002 (the "Original Note Ordinance"). The Original Note Ordinance was enacted pursuant to the Initial  
17 Bond Enabling Laws and Section 12 of Article 31 of the Annotated Code of Maryland, as amended (the  
18 "Bond Anticipation Note Act").

19 The Original Note Ordinance provides that the proceeds of the Notes will be applied, inter alia, to  
20 defray a portion of the costs of the Howard County Capital Projects designated and described in Appendix II  
21 thereto (the "Initial Projects") (as such Appendix II may be modified by ordinances supplemental thereto).  
22 The Initial Bond Ordinance provides that the first proceeds of the Initial Bonds of each series will be applied  
23 to the payment of the principal of the Notes when due (whether at maturity or otherwise), of if any of the  
24 Notes have been paid with the proceeds of an Advance under the Credit Agreement or any other Liquidity  
25 Facility Agreement (all as defined in the Original Note Ordinance), such first proceeds may be applied in

1 accordance with the Credit Agreement or such other Liquidity Facility Agreement to the payment of the  
2 obligations of the County under the Credit Agreement (and the Promissory Note (as defined in the Original  
3 Note Ordinance)) or other applicable Liquidity Facility Agreement incurred in connection with such  
4 Advance.

5         The Original Note Ordinance has been heretofore supplemented by (a) (i) Council Bill No.45-  
6 2002, enacted and effective on August 2, 2002, and (ii) Council Bill No.47-2002, enacted and effective  
7 on October 9, 2002 (collectively, the "2002 Supplemental Project Ordinances"), (b) Council Bill No. 46-  
8 2003, enacted and effective on August 1, 2003 (the "2003 Supplemental Project Ordinance"), and (c)  
9 Council Bill No. 1-2004, enacted and effective on January 21, 2004, as supplemented by Council Bill No.  
10 2-2004, enacted and effective on January 23, 2004 (collectively, the "2004 Bond Sale Ordinance"), in  
11 order to (1) add Council Bills Nos. 24-2002, 25-2002 and 35-2002 (collectively, the "2002 Additional  
12 Bond Enabling Laws") and Council Bills Nos. 28-2003, 29-2003, 39-2003, 40-2003, 55-2003 and 56-  
13 2003 (collectively, the "2003 Additional Bond Enabling Laws") to the definition of "Bond Enabling  
14 Laws" in the Original Note Ordinance and (2) modify the definitions of "Projects" and the descriptions in  
15 the Original Note Ordinance of the costs of the Projects which can be financed with the proceeds of the  
16 Notes to add the additional Howard County Capital Projects and related bond authorizations and the  
17 revised bond authorizations for existing Projects provided for in the 2002 Additional Bond Enabling  
18 Laws and the 2003 Additional Bond Enabling Laws (collectively, the "Additional Projects"), and (c)  
19 modify Appendix II to the Original Note Ordinance by including as a part thereof the appendices attached  
20 to the 2002 Supplemental Project Ordinances, the appendix attached to the 2003 Supplemental Project  
21 Ordinance and Appendix II attached to the 2004 Bond Ordinance.

22         The Original Note Ordinance has also been supplemented by Council Bill No. 23-2003, enacted  
23 and effective on June 6, 2003 (the "2003 Supplemental Note Ordinance"), in order to, among other things,  
24 increase the maximum aggregate principal amount of the Notes authorized to be outstanding thereunder  
25 and the maximum amount of Advances under the Credit Facility from \$60,000,000 to \$90,000,000. In

1 addition, Appendix II to the Original Note Ordinance included certain Projects and Project costs which  
2 were authorized by Council Bills Nos. 26-2001 and 27-2001, both enacted on July 3, 2001 and effective  
3 on September 3, 2001, among the Original Projects (the "Omitted Bond Enabling Laws"), but the Omitted  
4 Bond Enabling Laws were not included in the list of Initial Bond Enabling Laws. The 2003 Supplemental  
5 Note Ordinance also added the Omitted Bond Enabling Laws to the definition of "Bond Enabling Laws".

6 Accordingly, as used herein, the term "Existing Note Ordinance" means the Original Note  
7 Ordinance as modified and supplemented by the 2002 Supplemental Project Ordinances, the 2003  
8 Supplemental Project Ordinances, the 2003 Supplemental Note Ordinance and the 2004 Bond Sale  
9 Ordinance.

10 On June 5, 2002, the County also enacted Council Bill No. 22-2002 (the "Original Bond  
11 Ordinance"), pursuant to the Initial Bond Enabling Laws in order to provide for the issuance and sale of  
12 \$60,915,000 in aggregate principal amount of its Consolidated Public Improvement Bonds, in one or more  
13 series (the "Bonds"), in order to pay the Notes. The Original Bond Ordinance provides that it may be  
14 supplemented to modify the definitions of "Bond Enabling Laws" and "Projects" thereunder so that such  
15 terms will remain consistent with the definitions thereof in the Note Ordinance and the proceeds of the Bonds  
16 may be used to refinance all of the Projects financed with the proceeds of the Notes.

17 The Original Bond Ordinance has also been heretofore supplemented by the 2002 Supplemental  
18 Project Ordinances, the 2003 Supplemental Project Ordinance and the 2004 Bond Sale Ordinance, by  
19 Council Bill No. 22-2003, enacted and effective on June 6, 2003 (the "2003 Supplemental Bond Ordinance"),  
20 which increased the aggregate principal amount of the Bonds authorized to be issued pursuant to the Original  
21 Bond Ordinance, as supplemented by the 2002 Supplemental Project Ordinances, and the 2003 Supplemental  
22 Project Ordinance, by an additional \$91,375,000, and by Council Bill No. 24-2003, also enacted and effective  
23 on June 6, 2003, as supplemented by Council Bill No. 25-2003, enacted and effective on June 12, 2003  
24 (collectively, the "2003 Bond Sale Ordinance").

1           The 2003 Bond Sale Ordinance provided for, among other things, the issuance of the County's  
2 consolidated public improvement bonds in the aggregate principal amount of \$94,770,000 (the "2003  
3 Bonds"). \$54,895,000 in aggregate principal amount of such bonds was applied, together with \$5,105,000 of  
4 premium on such bonds, to repay the initial \$60,000,000 in aggregate principal amount of the Notes. Such  
5 principal amount constitutes "Bonds" for purposes of the Original Note Ordinance, as supplemented by the  
6 2002 Supplemental Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental  
7 Bond Ordinance and the 2003 Bond Sale Ordinance.

8           The 2004 Bond Sale Ordinance provided for, among other things, the issuance of two series of the  
9 County's consolidated public improvement bonds in the aggregate principal amounts of \$112,305,000 and  
10 \$21,000,000, for a total of \$133,305,000 (the "2004 Bonds"). \$48,290,000 in aggregate principal amount of  
11 such bonds have been applied, together with \$1,710,000 of premium on such bonds, to repay \$50,000,000 in  
12 aggregate principal amount of the Notes, thereby reducing the maximum aggregate principal amount of the  
13 Notes authorized to be outstanding to \$40,000,000. Such aggregate principal amount of \$48,290,000 also  
14 constitutes "Bonds" for purposes of the Original Note Ordinance, as supplemented by the 2002 Supplemental  
15 Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the  
16 2003 Bond Sale Ordinance and the 2004 Bond Sale Ordinance.

17           The Original Bond Ordinance, as modified by the 2002 Supplemental Project Ordinances, the 2003  
18 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the 2003 Bond Sale Ordinance  
19 and the 2004 Bond Sale Ordinance, is referred to herein as the "Existing Bond Ordinance". Appendix II to the  
20 Note Ordinance, as such Appendix II may be supplemented from time to time, is incorporated by reference  
21 into the Existing Bond Ordinance and made a part thereof.

22           The Bond Ordinance provides that the maximum principal amount of the Bonds authorized to be  
23 issued pursuant thereto may be increased by enactment of a Supplemental Ordinance (as defined in the  
24 Existing Bond Ordinance), and the County has determined that it is in the best interest of the County to  
25 increase the principal amount of the Bonds to be issued pursuant to the Existing Bond Ordinance, as

1 supplemented hereby (collectively, the "Bond Ordinance"), by an additional \$50,765,000 (the "Additional  
2 Bonds") so that the principal amount of the Bonds which may be issued under the Bond Ordinance after the  
3 issuance of the 2003 Bonds and the 2004 Bonds is at least \$91,375,000 .

4 The County has now determined and intends to enact an ordinance (Council Bill No. 46-2004),  
5 which is scheduled for final consideration by the County Council following final consideration of this Bill  
6 (the "Supplemental Note Ordinance"), to increase the maximum aggregate principal amount of the Notes  
7 authorized to be outstanding thereunder by \$50,000,000 (the "Additional Notes") in order to provide  
8 additional funds to finance Projects. Accordingly, after enactment of the Supplemental Note Ordinance, the  
9 maximum aggregate principal amount of the Notes outstanding at any time under the Existing Note  
10 Ordinance as so supplemented (collectively, the "Note Ordinance") shall be \$90,000,000, subject to increase  
11 or decrease hereafter in accordance with the Note Ordinance.

12 **Now, therefore:**

13 **Section 1. Be it enacted by the County Council of Howard County, Maryland,** That all terms  
14 used herein with an initial capital letter shall have the meanings given such terms in the Existing Bond  
15 Ordinance or in the Recitals of this Ordinance, as applicable, unless the context clearly indicates a contrary  
16 meaning.

17 **Section 2. Be it further enacted by the County Council of Howard County, Maryland,** That the  
18 Existing Bond Ordinance is hereby supplemented and amended as follows:

19 (a) The County, pursuant to the Bond Enabling Laws and in accordance with the Bond  
20 Ordinance, shall borrow an additional \$50,765,000 and incur indebtedness in such amount by issuing and  
21 selling upon its full faith and credit one or more series of the Additional Bonds in the aggregate principal  
22 amount of \$50,765,000.

23 (b) The Additional Bonds shall be considered to be "Bonds" for all purposes of the  
24 Bond Ordinance and all references in the Bond Ordinance to "Bonds" and all covenants and agreements

1 relating thereto shall include the Additional Bonds. In addition the Additional Notes shall be considered to be  
2 "Notes" for all purposes of the Bond Ordinance.

3 (c) Accordingly, the maximum principal amount of the Bonds authorized to be issued  
4 hereafter under the Bond Ordinance is hereby increased so that it is at least \$91,375,000.

5 (d) The proceeds of the Additional Bonds shall be applied to the payment of the  
6 principal of the Notes or, if any of the Notes have been paid with the proceeds of an Advance under the  
7 Credit Agreement or any other Liquidity Facility Agreement, such proceeds may be applied in accordance  
8 with the Credit Agreement or such other Liquidity Facility Agreement to the payment of the obligations of  
9 the County under the Credit Agreement (and the Promissory Note) or other applicable Liquidity Facility  
10 Agreement incurred in connection with such Advance.

11 **Section 3. Be it further enacted by the County Council of Howard County, Maryland, That,**  
12 pursuant to and in accordance with the Bond Enabling Laws and the Bond Anticipation Note Act, the County  
13 hereby finds and determines as follows:

14 (a) The probable average useful life of the Projects expected to be financed with the  
15 proceeds of the Additional Bonds is more than 25 years, and all of the Bonds and all of the Notes will be  
16 payable within such period.

17 (b) The aggregate principal amount of the Additional Bonds is within legal limitation  
18 on the indebtedness of the County as set forth in Article VI of the Charter of the County.

19 **Section 4. Be if further enacted by the County Council of Howard County Maryland, That,**  
20 except as expressly modified and supplemented hereby, the Bond Ordinance shall remain in full force and  
21 effect; and the Bond Ordinance, as modified and supplemented hereby, is ratified and confirmed.

22 **Section 5. Be if further enacted by the County Council of Howard County, Maryland, That this**  
23 Ordinance shall take effect on the date of its enactment.